

R E M A R K S

- Claims 1-51 were pending in the present application

Upon entry of this Amendment, which is respectfully requested for the reasons set forth below:

- Claims 34-45 and 50-51 will be pending
- Claims 1-33 and 46-49 will be cancelled
- Claims 34, 42, and 50-51 will be the only independent claims

Election/Restriction

In order to comply with the Examiner's Requirement for Restriction, Applicants have elected the subject matter that the Examiner has designated as Invention II (including Claims 34-45 and 50-51).

At this time, Applicants plan to file an additional paper adding additional claims consonant with this election.

Claim Amendment

1. Claims 1-33 and 46-49 have been cancelled without prejudice

Applicants have cancelled Claims 1-33 and 46-49 without prejudice. In response to the Examiner's requirement for restriction, Applicants plan to pursue the subject matter of Claims 1-33 and 46-49 in a continuing application.

2. Claim 51 has been amended

Independent Claim 51 has been amended to correct an obvious and erroneous error in punctuation. No new matter was added by this amendment, and no amendment was made for any reason related to patentability.

Comments on "Invention II"

Applicants note, without further comment or traverse, the Examiner's assertion that the subject matter identified by the Examiner as Invention I is patentably distinct from the subject matter identified by the Examiner as Invention II.

1. "Use" of a physiological monitoring device

However, with respect to the subject matter designated by the Examiner as Invention II, the Examiner states: "[T]he method(s) and apparatus do not use a physiological monitoring device." Office Action, paragraph 2.

It is not clear from this brief statement what the Examiner means by "not use a physiological monitoring device." For example, independent Claim 42 recites a feature of *at least one telemetry device*. Further, independent Claim 42 recites features of (i) *wherein the entity agrees to continuously monitor physiological parameters through at least one telemetry device*; and (ii) *wearing the at least one telemetry device*. Accordingly, Applicants respectfully traverse this assertion.

Also, Applicants respectfully note that none of the claims that the Examiner asserts are directed to Invention II (Claims 34-45 and 50-51) precludes any "use" of a physiological monitoring device.

2. "a business method"

With respect to the subject matter designated by the Examiner as Invention II, the Examiner states that Claims 34-45 and 50-51 are "drawn to a method and apparatus for a business method." Office Action, paragraph 2. Applicants respectfully traverse this assertion.

It is not clear to Applicants what the Examiner means by "a business method." For instance, the term, "business method," is not defined by any statute or rule, and has no bearing on examination or patentability.

Conclusion

The Examiner's early examination and consideration are respectfully requested.

If there remains any question regarding the present application, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

Respectfully submitted,

October 15, 2002

Date

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A M E N D M E N T

Marked-Up Version

Please amend the above-specified application as follows:

IN THE CLAIMS:

Please **REPLACE** Claim 51 as follows:

51. (AMENDED) A computer readable medium encoded with processing instructions for implementing a method, the method comprising the steps of:[:]

establishing an agreement with an expert, wherein the agreement specifies a periodic compensation amount that the expert will receive in exchange for providing a minimum number of diagnoses during a time period;

transmitting, during the time period, a plurality of requests to the expert, wherein each request comprises a request for a diagnosis of a physiological anomaly associated with a patient;

receiving, from the expert, a response to each of the requests;

receiving, for each response that is an acceptance of the request, the diagnosis for the patient of the request; and

causing the compensation amount to be provided to the expert if, at the end of the time period, it is determined that the expert has provided the minimum amount of diagnoses during the time period.

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